

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM C. MELCHOR,

Defendant-Appellant.

UNPUBLISHED

October 16, 2003

No. 241430

Wayne Circuit Court

LC No. 01-004909-01

Before: Fitzgerald, P.J., and Zahra and Hood, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of carrying a concealed weapon in a vehicle, MCL 750.227(2), felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to prison terms of two to five years for the CCW and felon in possession convictions, and to a consecutive two-year for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant first argues that there was insufficient evidence to prove beyond a reasonable doubt that he possessed a firearm at the time of the crimes. In reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). In addition, this Court “must consider the evidence presented by the prosecution in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Riley*, 468 Mich 135, 139; 659 NW2d 611 (2003).

To have possessed or carried a firearm for purposes of the charges, a defendant need only have had constructive possession of the firearm. Constructive possession requires that the weapon be nearby and readily available. *People v Burgenmeyer*, 461 Mich 431, 437; 606 NW2d 645 (2000); *People v Courier*, 122 Mich App 88, 90; 332 NW2d 421 (1982). Here, defendant was seated in the passenger seat of the vehicle and the firearm was found in a hole in the vehicle’s passenger-side door. Viewed in a light most favorable to the prosecution, this evidence was sufficient to permit a rational trier of fact to conclude that defendant possessed or carried the firearm at the time of the crimes.

Defendant also argues that the trial court made insufficient findings of fact and conclusions of law. We disagree. This Court may not set aside a trial court’s findings of fact unless they are clearly erroneous. MCR 2.613(C). In addition, MCR 2.517(2) provides that

“[b]rief, definite and pertinent findings and conclusions are sufficient, without over elaboration of detail or particularization of facts.” This Court has applied these rules to criminal cases. MCR 6.001(D).

Here, the court’s findings indicate that it was aware of the factual issues and correctly applied the law. The court summarized the facts, specifically addressed defendant’s arguments, and made separate and distinct conclusions of law. The court’s decision was thus sufficient under MCR 2.517.

We have reviewed the issues raised by defendant in his supplemental brief and find them to be without merit. Evidence that a police officer received information from dispatch over the radio and that the information formed the basis for the stop and subsequent arrest is not hearsay. Nonetheless, even if the evidence was improperly admitted hearsay evidence, where defendant received a bench trial it is presumed that the judge confined himself to the proper use of the evidence. *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). Further, contrary to defendant’s argument, the predicate felony for the felony-firearm conviction was felon in possession of a firearm, not CCW. Finally, we have already concluded that the evidence presented was sufficient to support a finding that defendant possessed or carried the firearm at the time of the crimes.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Brian K. Zahra

/s/ Karen M. Fort Hood